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Paper No. 12

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In re Application of
Neaux
Application No. 09/993,026
Filed: November 14, 2001
Attorney Docket No.: 9320.138US01
For: ROOF-RACK BAR FOR AUTOMOBILE
VEHICLES INTENDED TO BE MOUNTED ON
NON-PARALLEL SIDE RAILS

ON PETITION

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OFFICE OF PETITIONS

This is a decision on the petition, filed February 8, 2002, under 37 CFR 1.181 in response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed December 10, 2001.

The application was filed November 14, 2001. On December 10, 2001, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of November 14, 2001, but indicating, among other things, that page one of the specification appeared to have been omitted.

The Notice permits applicant to either: (1) establish prior receipt in the PTO of page 18 of the specification or (2) submit the omitted page of specification and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must be made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner contends that the application was complete upon filing and states that page one was present in the form of the abstract page, but that the abstract page was unnumbered.

A review of the substitute specification filed in response to the Notice confirms that page one is present in the form of the abstract page and that this page is unnumbered. Since it is obvious from the petition that no pages were actually missing on November 14, 2001, and that applicant does not intend to file any additional pages of specification, the application will be processed using the substitute specification submitted February 8, 2002.

However, the Notice mailed December 10, 2001, was correct in advising applicant that page one of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is dismissed.

The petition fee will not be refunded, since the petition was not necessary to correct any PTO error.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of November 14, 2001, using the substitute specification submitted February 8, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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